



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,680	03/09/2004	Thilo Leineweber	10191/3467	4908
26646	7590	08/24/2006	EXAMINER	
KENYON & KENYON LLP			WEISKOPF, MARIE	
ONE BROADWAY			ART UNIT	
NEW YORK, NY 10004			PAPER NUMBER	

3661

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/797,680	LEINEWEBER ET AL.	
	Examiner	Art Unit	
	Marie A. Weiskopf	3661	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/9/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al (US 6,081,763). Smith et al discloses a cruise control system for motor vehicles comprising:

- In regard to claim 1, a device for controlling a speed of a motor vehicle in terms of one of a constant distance control in the case that at least one preceding vehicle is detected by a radar sensor and a constant speed control in the case that no preceding vehicle is detected by a radar sensor (Column 2, line 66 – Column 3, line 4), the device comprising:
  - An arrangement for allowing a distance to a preceding vehicle to be set by a driver of the vehicle in the form of a time gap (Column 3, lines 15-20)
  - An arrangement for changing longitudinal dynamics of the speed control when the time gap changes (Column 3, lines 54-59). When the time gap changes the system either applies the breaks or accelerates which is changing the longitudinal dynamics.
- In regard to claim 3, further comprising means for increasing, given a decrease in the time gap, at least one of a maximum possible vehicle acceleration and a

maximum possible vehicle deceleration implementable by a speed control system (Column 3, line 54 – Column 4, line 9)

- In regard to claim 4, further comprising means for first activating, given a decrease in the time gap, deceleration devices of the vehicle at a shorter distance from the preceding vehicle (Column 3, line 54 – Column 4, line 9)
- In regard to claim 5, a method for controlling a speed of a motor vehicle in terms of one of a constant distance control in the case that at least one preceding vehicle is detected by a radar sensor and a constant speed control in the case that no preceding vehicle is detected by a radar sensor (Column 2, line 66 – Column 3, line 4), the method comprising:
  - Setting a distance to a preceding vehicle by a drive of the vehicle in the form of a time gap (Column 3, lines 15-20)
  - Changing longitudinal dynamics of the speed control when the time gap changes (Column 3, lines 54-59)

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al (US 6,081,763) in view of Hellmann et al (US 6,941,215). Smith et al is discussed above and Hellmann et al discloses a method and device for triggering a request for

taking control in ACC-Controlled vehicles. Smith et al fails to disclose specifically that a change in the time gap allows different driving programs to be selected. Hellmann et al, however, discloses that a change in the time gap can relate to different travel programs such as comfortable, safe, sporty, etc. (Column 3, lines 58-60) It would have been obvious to one having ordinary skill in the art at the time of the invention to include changing the driving programs and how the vehicle reacts depending upon the program that is selected with the time gap.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

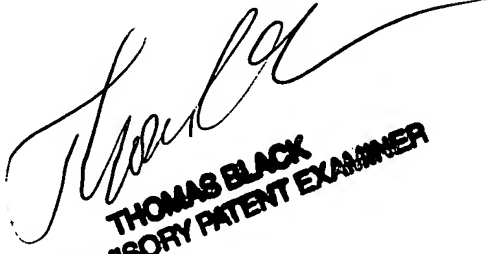
- US 6,311,120 to Asada discloses an automatic speed control device for a vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marie A. Weiskopf whose telephone number is (571) 272-6288. The examiner can normally be reached on Monday-Thursday between 7:00 AM and 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

\*\*\*



**THOMAS BLACK**  
**SUPERVISORY PATENT EXAMINER**